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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

L.M.,

Petitioner,

v.

THE SUPERIOR COURT OF STANISLAUS
COUNTY,

Respondent;

STANISLAUS COUNTY COMMUNITY
SERVICES AGENCY,

Real Party in Interest.

F064500

(Super. Ct. No. 516126)

OPINION

THE COURT*

ORIGINAL PROCEEDINGS; petition for extraordinary writ review. Ann Q.
Ameral, Judge.

Kimberly C. Ayers, for Petitioner.

No appearance for Respondent.

John P. Doering, County Counsel, for Real Party in Interest.

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* Before Wiseman, Acting P.J., Cornell, J. and Poochigian, J.

L.M. (mother) seeks an extraordinary writ (Cal. Rules of Court, rule 8.452) from the juvenile court's orders issued at a contested six-month review hearing terminating reunification services and setting a Welfare and Institutions Code section 366.26¹ hearing as to her 23-month-old daughter Ava. We deny the petition.

PROCEDURAL AND FACTUAL SUMMARY

In June 2011, the Stanislaus County Community Services Agency (agency) took then 11-month-old Ava into protective custody because mother was using drugs and not following up with medical appointments for Ava's asthma and kidney reflux. Mother told the investigating social worker that she was using methamphetamine to treat her untreated bipolar disorder. Ava was placed in the home of her maternal aunt.

The juvenile court exercised its dependency jurisdiction and ordered mother to participate in individual counseling, take any medication prescribed to stabilize her mental health, complete a parenting program and a substance abuse assessment and submit to random drug testing. The court set a progress review hearing in December 2011 and a six-month review hearing in February 2012.

In a report filed for the progress review hearing, the department reported that mother was homeless and continued to use methamphetamine. However, several weeks before the hearing, she completed mental health and substance abuse assessments and entered a residential treatment program. She also had an appointment to enroll in a parenting program. The department also reported that she did not consistently visit with Ava.

On December 7, 2011, at the progress review hearing, the juvenile court continued services to the six month review hearing and cautioned mother about her lack of progress.

On December 21, 2011, mother completed residential treatment and checked into Solidarity, a clean and sober living facility. On January 21, 2012, mother left the facility

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

on an overnight pass to visit a relative. She was supposed to return the next day. Instead, she contacted the staff about a week later, saying she was not going to return. On January 25, 2012, mother had same-day surgery but subsequently had little contact with the social worker.

The six-month review hearing was continued and conducted in March 2012. Meanwhile, the agency reported that mother made limited progress in her services plan. She claimed to be taking psychotropic medication but did not provide any verification. She enrolled in a parenting class but did not attend, and attended an initial appointment for individual counseling but did not return. She tested negative for drugs while in residential treatment and subsequently failed to drug test. She also missed several visits in February. In March, mother tested positive for methamphetamine.

In its report for the six-month review hearing, the agency recommended that the juvenile court terminate reunification services and set a section 366.26 hearing.

Mother and social worker Vanesa Cardenas testified at the six-month review hearing. Mother testified that she did not take parenting classes while in drug treatment because she gets overwhelmed easily and she wanted to focus on getting and staying sober. After she finished treatment, she attended an intake appointment for counseling but acknowledged that she did not complete parenting classes or individual counseling. Mother testified that she had surgery in January 2012 and afterward was instructed to stay in bed and limit her movement for approximately four weeks. During her recovery, she missed visits with Ava. She also testified that she relapsed after her sister told her that the agency was placing Ava in another home and considering terminating reunification services. She said she felt lost and confused. She testified that she used on and off since February 2012 but not as she had in the past. Mother also said that she had been in 28 mental institutions and drug programs.

Ms. Cardenas testified that she gave mother a referral for a drug assessment in February 2012 but mother was anxious and could not complete it. In addition, she and

mother discussed a referral to a different clean and sober living facility but mother was not interested. She said she knew that mother was anxious about having surgery and the staff at Solidarity helped her prepare a plan to cope with surgery. She testified that mother did not tell her she could not visit in February because of her surgery. She also said that she and mother discussed the reasons for Ava's change in placement before it occurred and mother was in agreement. Ms. Cardenas testified she did not have documentation that mother was taking psychotropic medication, which concerned her because mother told her she could only abstain from drugs if her mental health was under control. Ms. Cardenas further testified that she received information, confirmed by mother, that mother was incarcerated prior to the six-month review hearing for controlled substances and receiving stolen property.

At the conclusion of the hearing, the juvenile court found that the agency provided mother reasonable services but that she made "extremely limited" progress and that there was not a substantial probability Ava could be returned to her care if services were continued. Consequently, the juvenile court terminated mother's reunification services and set a section 366.26 hearing. This petition ensued.

DISCUSSION

Mother contends that the juvenile court erred in terminating her reunification services, arguing she made substantial progress in her treatment and remained clean and sober for two months. She argues her inability to process too many treatment programs at once should not be grounds for termination of services. She acknowledges her relapse but asks this court to consider her tenuous mental state at the time. She informs this court that she is clean and sober, has a sponsor, and takes her medication. She seeks an additional six months of services to complete parenting classes and counseling sessions. We find no error in the juvenile court's decision to terminate services.

The juvenile court may terminate reunification services at the six-month review hearing where, as here, the child was under the age of three years when initially removed

and the court finds by clear and convincing evidence that the parent failed to participate and make substantive progress in court-ordered services and that there is not a substantial probability the child will be returned to parental custody by the 12-month review hearing. (§ 366.21, subd. (e).)²

We review the juvenile court's order terminating reunification services to determine if it is supported by substantial evidence. (*In re Shaundra L.* (1995) 33 Cal.App.4th 303, 316.) Substantial evidence is "reasonable, credible evidence of solid value such that a reasonable trier of fact could make the findings challenged" (*In re Brian M.* (2000) 82 Cal.App.4th 1398, 1401.)

We conclude substantial evidence supports the juvenile court's finding that mother did not regularly participate and make substantive progress in her court-ordered services. She did not participate in parenting classes and individual counseling at all. More importantly, she was not medication compliant and was still using drugs.

We further conclude, to the extent mother raises it, that substantial evidence supports the juvenile court's finding that there was not a substantial probability that Ava could be returned to mother's custody by the 12-month review hearing. In order to find a substantial probability of return, the court must find the parent regularly visited the child, made significant progress in resolving the problem prompting removal of the child and demonstrated the capacity and ability to complete the objectives of the case plan and provide for the child's safety, protection and well-being. (§ 366.21, subd. (g)(1).) According to the evidence, mother did not regularly visit Ava, nor did she make

² Section 366.21, subdivision (e) provides in relevant part:

"If the child was under three years of age on the date of the initial removal, ... and the court finds by clear and convincing evidence that the parent failed to participate regularly and make substantive progress in a court-ordered treatment plan, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If, however, the court finds there is a substantial probability that the child ... may be returned to his or her parent ... within six months or that reasonable services have not been provided, the court shall continue the case to the 12-month permanency hearing."

significant progress in treating her mental health condition and substance abuse, or demonstrate the capacity to complete the objectives of her services plan and provide for Ava's safety and well-being. We find no error on this record.

DISPOSITION

The petition for extraordinary writ is denied. This opinion is final forthwith as to this court.